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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/648,814      | 08/26/2003  | Bryan V. Butler      | WEAT/0314           | 4565             |

7590 03/08/2005

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| EXAMINER |
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STEPHENSON, DANIEL P

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| ART UNIT | PAPER NUMBER |
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3672

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/648,814

**Applicant(s)**

BUTLER ET AL.

**Examiner**

Daniel P Stephenson

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/26/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/21/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: the reference numbers "28" on line 3 of paragraph 16 and line 1 of paragraph 26 should be changed to --30--.

Appropriate correction is required.

2. The disclosure is objected to because of the following informalities: the reference number "32" on line 6 of paragraph 16 should be changed to --28--.

Appropriate correction is required.

3. The disclosure is objected to because of the following informalities: the reference number "150" on line 7 of paragraph 22, line 2 of paragraph 32 and lines 9 and 11 of paragraph 34 should be changed to --151--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Roeder. Roeder (Figures 1 and 2) discloses an apparatus for pumping fluids from the production zone of a wellbore. The apparatus has a pump (24), with a fluid outlet. The fluid outlet carries at least a portion of the wellbore fluid when the pump is pumping. There is a gas supply (20, 21), which forms gaseous bubbles in said wellbore, and more specifically in the pump as it is

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used to lift the fluid. The pump is a jet pump with a fluid inlet communicable through said pump with the fluid outlet. There is a tube (26) extending downwardly in the wellbore from a wellhead location to the pump. The tube is in fluid communication with the pump inlet. There is a casing between the wellbore and the tube. There is a wellhead disposed over the casing, and a fluid outlet disposed adjacent to the wellhead. Above ground there is a fluid control system.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roeder in view of Vilagines. Roeder shows all the limitations of the claimed invention, except, it does not disclose that the pump used to pump the power fluid down the borehole is a multiphase pump that provides the gas in a non-vapor phase. Vilagines discloses a multiphase pump that takes a liquid and gas mixture and converts it to a predominantly liquid stream. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the multiphase pump of Vilagines with the apparatus of Roeder. This would be done because it is easier to pump a fluid downhole then it is to pump a gas.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roeder in view of Vilagines and Sanderford. Roeder in view of Vilagines shows all the limitations of the claimed invention, except, it does not disclose that there is a start-up system in the fluid control system.

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Sanderford discloses a gas lift system that includes a start-up system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the start-up system of Sanderford with the apparatus of Roeder in view of Vilagines. This would be done because it is common knowledge in the art of gas lifting operations that a start-up control must be used.

*Allowable Subject Matter*

9. Claims 13 and 14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Canfield, Black, Haselden et al., Newbrough, Bates et al., Mastroianni et al., Short, Stevenson, Adamache et al., Nagel et al., and the pre-grant publication '416 to Khomynets all show similar elements to those of the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P Stephenson whose telephone number is (703) 605-4969 until 3/31/05 at which time it will change to (571) 272-7035. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on (703) 308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Bagnell  
Supervisory Patent Examiner  
Art Unit 3672

DPS 087